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Docket No. 9988.038.00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
LEE, Soon Jo et al.

Customer No. 30827

Application No. 10/629,775

Confirmation No. 7792

Filed: July 30, 2003

Art Unit: 3749

For: TOP COVER ASSEMBLY FOR LAUNDRY
DRYER

Examiner: Stephen M. Gravini

MS Board of Patent Appeals & Interferences
Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF

Sir:

In response to the Examiner's Answer, dated November 14, 2006, Appellants submit the following additional remarks for consideration by the Honorable Board.

I. STATUS OF THE CLAIMS

Total Number of Claims in the Application

There are 24 claims pending in the application.

Current Status of Claims

Claims canceled: 1 and 21.

Claims withdrawn from consideration but not canceled: None.

Claims pending: 2-20 and 22-26.

Claims allowed: None.

Claims rejected: 2-20 and 22-26.

Claims on Appeal: The claims on appeal are claims 2-20 and 22-26.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(A) Claims 5-18 and 22-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,402,281, issued to A. W. Vonderhaar (hereinafter “Vonderhaar”) in view of Holub.

(B) Claims 2-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vonderhaar in view of Holub and U.S. Patent No. 1,993,201, issued to W. H. Yandell (hereinafter “Yandell”).

(C) Claims 19-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vonderhaar in view of Holub and Yandell.

In the Examiner’s Answer, the Examiner withdrew the rejection of claim 2 under 35 U.S.C. § 102(b) based on Holub. In addition, the Examiner withdrew the double patenting rejection of claims 2-20 and 22-26.

III. ARGUMENTS

A. Independent Claim 26, and Claims 2-14, Which Depend Therefrom, Are Not Obvious Over Vonderhaar In View Of Holub Under 35 USC §103(a)

It is understood that in order to establish a *prima facie* case of obviousness under 35 USC §103, three basic criteria must be met. One of these criteria is that the prior art reference (or references when combined) must teach or suggest *all* the claim limitations. Since Vonderhaar and Holub, alone or in combination, at least fail to teach or suggest a laundry dryer top cover assembly comprising, among other things, “a cabinet holder configured to fasten the fire plate to the side plate wherein the cabinet holder includes a plurality of fastening pieces configured for insertion into the fire plate and the side plate,” as expressly required by claim 26, the combined teaching of Vonderhaar and Holub cannot render obvious any of claims 2-14 and 26.

1. The Dimpled Sections 136 In Vonderhaar Do Not Fasten A Fire Plate To A Side Plate, Therefore, They Cannot Possibly Constitute A Cabinet Holder Or The Fastening Pieces Of The Cabinet Holder, As Required In Claim 26

During prosecution, the Examiner argued that the dimpled sections 136, disclosed in Vonderhaar, constitute the “cabinet holder” recited in claim 26. The Examiner also argues that support member 134 in Vonderhaar constitutes a fire plate and dimpled sections 136 join the fire

plate to the side plate 11. The Examiner reiterates this position in the Examiner's Answer. *Examiner's Answer at page 4.* Appellants respectfully submit that the Examiner has mischaracterized the aforementioned features in Vonderhaar.

In the Appeal Brief, the Appellants submit that dimpled sections 136 do not fasten a fire plate to a side plate, nor are they configured for insertion into a fire plate and a side plate as required by claim 26. *Appeal Brief at page 5.* All Vonderhaar discloses is that dimpled sections 136 align with a plurality of openings in flange 135 for mounting support member 134. *Vonderhaar at column 6, line 58 (cited by the Examiner).* Even if dimpled sections 136 constitute fastening pieces and support member 134 constitutes a fire plate and flange 135 constitutes a side plate, dimpled sections 136 are not configured for insertion through support member 134 and flange 135, as required by claim 26. In any events, support member 134 is not a fire plate; it is a thin edge bracket that expressly provides support, not fire protection, and flange 135 is not a side plate. As pointed out by the Examiner, side panel 11 is the side plate. *Examiner's Answer at page 4.* Thus, dimpled sections 136 do not fasten a fire plate to a side plate, and they cannot possibly constitute the "cabinet holder" or the "plurality of fastening pieces" of claim 26, even under the broad claim interpretation policy of the Patent Office.

Furthermore, as explained in the Appeal Brief, Holub fails to cure the deficiencies of Vonderhaar. Accordingly, Appellants respectfully submit that claim 26 and claims 2-14 are patentable over Vonderhaar in view of Holub, even if one of ordinary skill were motivated to combine these references.

2. The Studs or Pins 86 Do Not Fasten A Fire Plate To A Side Plate, And Thus Cannot Possibly Constitute The Fastening Pieces Of A Cabinet Holder, As Required In Claim 26

During prosecution, the Examiner alternatively argued that main section 82 of side panel 11 in Vonderhaar constitutes the claimed "cabinet holder." *See, e.g. Final Office Action of March 21, 2006 at pp. 4-5.* The Examiner maintains this argument in the Examiner's Answer. In addition, and for the first time, the Examiner argues that Vonderhaar, at column 5 lines 4-22, "discloses studs or pins which meet the structural and functional limitation of the claimed fastening pieces." The Examiner further argues that Vonderhaar at column 5, beginning at line 15, "discloses that studs or pins 86 are adapted for fastening main section cabinet holder 82 with cook top cover 12 and fire plate 77 wherein the fire plate is between the side panel plate 11 and the top cover." *Examiner's Answer at page 7.*

In response to the Final Office Action and in the Appeal Brief, Appellants explain that main section 82 is the side panel, or at least the main section of side panel 11. This is clearly illustrated in Figure 5 of Vonderhaar. *See also, Vonderhaar at column 5, lines 8-13.* Therefore, the main section 82 cannot be the claimed cabinet holder, as argued by the Examiner. Moreover, the burner box 77 of Vonderhaar is not a fire plate, as argued by the Examiner. Vonderhaar clearly explains that burner box 77 “functions in the normal manner to provide a suitable space beneath the cooktop 12 for accommodating the wiring and other control equipment...as well as providing a recess for the drip pans provided with each surface burner.” The word “fire” or “fire prevention” appears nowhere in Vonderhaar. For at least these reasons, main section 82 of Vonderhaar is not configured to fasten a fire plate and a side plate and does not, therefore, constitute the “cabinet holder” or “fastening pieces” of the cabinet holder recited in claim 26.

With regard to the Examiner’s new, alternative argument that studs or pins 86 constitute the fastening pieces of a cabinet holder, Appellants submit that the pins or studs 86, are not configured to be inserted into a fire plate and a side plate. Moreover, pins or studs 86 are not even part of the side panel, as required by claim 26. Turning to that portion of Vonderhaar relied upon by the Examiner, it is stated that:

The flange 84 [of the side panel 11] at the free edge thereof is formed with vertically spaced slots 85 which are adapted to receive **studs or pins 86** mounted on and extending outwardly from the flanges 51 of the respective side liner members 41 and 42. ***Emphasis Added.***
Vonderhaar at column 5, lines 13-32.

A close inspection of the passage in conjunction with Figure 5 reveals that the pins or studs 86 are part of flanges 51 which, in turn, are vertical structures associated with the oven liner 41 and 42, and are in no way a part of any structure functioning as a cabinet holder as set forth in claim 26. Furthermore, even if one were to construe burner box 77 in Vonderhaar as a fire plate, studs or pins 86 do not connect to, fasten to, or have anything to do with burner box 77, as required by claim 26. Therefore, studs or pins 86 cannot be reasonably interpreted as fastening pieces “configured for insertion into a fire plate,” as required by claim 26.

Again, Holub fails to cure the deficiencies of Vonderhaar. Thus, Appellants respectfully submit that claims 26 and 2-14 are patentable over Vonderhaar in view of Holub.

B. Independent Claim 15 and Claims 16-20 and 22-25 Are Not Rendered Obvious By Vonderhaar In View of Holub Under 35 USC §103(a)

Since Vonderhaar and Holub, alone or in combination, at least fail to teach or suggest a laundry dryer top cover assembly comprising, among other things, a “fire plate having a first flange with a plurality of first fastening holes; and a cabinet holder joining the fire plate to the side plate, the cabinet holder including a plurality of fastening pieces on an underside of the cabinet holder wherein the plurality of first fastening holes receive the plurality of fastening pieces,” as expressly required by claim 15, the combined teaching of Vonderhaar and Holub cannot render obvious independent claim 15.

It should be noted that independent claim 15 and independent claim 26 include several similar features. In addition, the Examiner’s arguments with respect to claim 26 all but parallel his arguments associated with claim 15. Accordingly, Appellants need not repeat their positions, nor all of the Examiner’s arguments, which equally apply to both independent claims. Herein below, Appellants will instead focus on one particular feature in claim 15 that is not present in claim 26. More specifically, Appellants will focus their attention on the feature, “fastening pieces on an underside of the cabinet holder.”

1. Neither The Dimpled Sections 136 Nor The Studs Or Pins 86 in Vonderhaar Constitute A “Cabinet Holder” Or “Fastening Pieces On An Underside Of The Cabinet Holder,” As Required In Claim 15

As discussed above, the Examiner first argues that dimpled sections 136 constitute a cabinet holder. *Examiner’s Answer at page 4*. However, if the dimpled sections 136 constitute a cabinet holder, then according to claim 15, the underside of the dimpled sections 136 must include fastening pieces. In fact, the Examiner, other than a conclusory statement, never analyzes the “underneath” feature. Nor does the Examiner point out the location of the “underside” of the dimpled sections 136 or identify fastening pieces thereon. The fact is, dimpled sections 136 do not meet either the structural or functional requirements of the cabinet holder or the fastening pieces on the underside of the cabinet holder, as required by claim 15.

In the alternative, the Examiner argues that the main section 82 of side panel 11 is the cabinet holder and that studs or pins 86 constitute the fastening pieces. *Examiner’s Answer at page 4*. As discussed above, main section 82 is the main section of side panel 11; it is not a cabinet holder. Moreover, studs or pins 86 are not part of the main section 82; they are part of

flanges 51 and oven liners 41 and 42. Accordingly, studs or pins 86 are not located on the underside of main section 82 of side panel 11, even if main section 82 is somehow construed to be a cabinet holder. Thus, even under the Patent Office's Policy of broad claim interpretation, it is not reasonable to construe studs or pins 86 as the fastening pieces required by claim 15.

2. Flanges 84 And Fasteners 144 And 145 in Vonderhaar Do Not Constitute A "Cabinet Holder" Or "Fastening Pieces On An Underside Of The Cabinet Holder," Respectively, As Required In Claim 15

In still another interpretation of Vonderhaar, the Examiner argues that flange 84 constitutes the cabinet holder and that first fasteners 144 and 145 constitute fastening pieces. With relative ease, one can see in Figure 5 of Vonderhaar that flange 84 is a vertical flange associated with and part of side panel 11, not a cabinet holder. However, even if one did construe flange 84 as a cabinet holder, neither fasteners 144 or 145 are located on an underside of flange 84. In fact, fastener 144 is not even a part of flange 84, it is part of the burner box 77. For at least these reasons, it is unreasonable to construe flange 84 and fasteners 144 and 145 as a cabinet holder and fastening pieces on an underside of a cabinet holder, respectively, as claim 15 requires.

Again, Holub fails to redeem the shortcomings of Vonderhaar. Thus, claim 15-20 and 22-25 are patentable over the combined teaching of Vonderhaar in view of Holub.

III. CONCLUSION

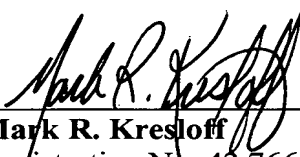
Appellants point out that the tertiary reference, Yandell, was not cited by the Examiner to correct, and does not in any way correct, any of the aforementioned shortcomings of Vonderhaar or Holub with respect to independent claims 15 and 26.

For all the above reasons, and the reasons stated in the Appeal Brief, Appellants respectfully request that this Honorable Board find that the Examiner has failed to establish a prima facie case of obviousness under 35 U.S.C. § 103(a), and reverse the rejection of claims 2-20 and 22-26.

Respectfully submitted,

Dated: **January 16, 2007**

By



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